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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 CONVOLVE, INC.; and
4 MASSACHUSETTS INSTITUTE OF
TECHNOLOGY,

5 Plaintiffs,

6 v.

00 Civ. 5141 (GBD)

7 COMPAQ COMPUTER CORP.; SEAGATE
8 TECHNOLOGY, INC.; and SEAGATE
TECHNOLOGY, LLC,

9 Defendants.

10 -----x

11 New York, N.Y.
12 August 17, 2011
10:30 a.m.

13 Before:

14 HON. GEORGE B. DANIELS,

15 District Judge

16 APPEARANCES

17 CADWALADER WICKERSHAM & TAFT

Attorneys for Plaintiffs

18 BY: GREGORY A. MARKEL

-and-

SUSMAN GODFREY

19 BY: STEPHEN D. SUSMAN

20 BARTLIT BECK HERMAN PALENCHAR & SCOTT

Attorneys for Defendant Compaq Computer Corp.

21 BY: CHRISTOPHER D. LANDGRAFF

22 McDERMOTT WILL & EMERY

23 Attorneys for Defendants Seagate Technology, Inc. and
Seagate Technology, LLC

24 BY: TERRENCE P. McMAHON

DANIEL E. ALBERTI

25 DAVID H. DOLKAS

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1 (Case called)

2 THE COURT: Gentlemen, I have decided the motion.
3 I've separated two things. I've given you a memorandum
4 decision and I have a separate order. The reason I've done
5 that is because I think it may be, and you can tell me if you
6 don't want to proceed this way, but I think it may be
7 appropriate for me to go ahead and file the order and file the
8 memorandum decision under seal. I think that that's the
9 appropriate way.

10 MR. MARKEL: Your Honor, yes, we would ask that the
11 memorandum and decision be filed under seal.

12 MR. McMAHON: Your Honor, certainly we agree with the
13 way you proceeded. I am not sure why we filed the order under
14 seal. It's public.

15 THE COURT: Not the order. Only the memorandum.

16 MR. McMAHON: I mean the memorandum. I don't know
17 that there is anything insofar as their trade secret
18 information in there. We can redact it. And then we can file
19 a redacted memorandum.

20 THE COURT: I'll do it this way. I am going to file
21 the memorandum decision under seal. If you both can agree to
22 an appropriate redaction to file the document, a redacted
23 document, not under seal, that's fine, and you let me know and
24 I'll file that. I want to give you an opportunity to look at
25 it. There are a lot of things, references that were submitted

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1 under seal. So you have to tell me whether or not you can
2 comfortably redact, give me a redaction.

3 MR. McMAHON: Yes, your Honor. Thank you, your Honor.

4 THE COURT: What I want to do, I want to give you some
5 opportunity to review that and to speak to each other about how
6 you want to proceed. I think that what makes sense is for me
7 to set a conference for maybe the first week in October, let
8 you discuss how you want to proceed. You could either by
9 letter or on that date let me know when you think that you
10 would want to submit a joint pretrial order and what month that
11 you think that you might want to try the case, if this case is
12 going to be tried, and then we can discuss that process. If
13 there is anything else, any other way you want to proceed, you
14 can give me by letter before then, or we can discuss that on
15 that date.

16 I am going to propose October 6 at 10:00 as the next
17 conference date. I want to give you an opportunity to look
18 over the opinion, decide how you want to proceed, discuss it
19 with each other, and then by October 6 we can be prepared to
20 move forward to hopefully final resolution of this case.

21 Anything else that we need to address today before you
22 have an opportunity to review the decision and discuss those
23 issues. Anything?

24 MR. MARKEL: Nothing else, your Honor.

25 MR. McMAHON: Nothing else, your Honor. Thank you,

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1 your Honor.

2 THE COURT: I'll see you October 6 at 10:00, unless I
3 hear from you earlier.

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